IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Crl.MC.No. 2642 of 2007()

ST.1714/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, THALASSERY

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PETITIONER: ACCUSED:

LALU K.R.,
KADAVIL HOUSE, KATTUR, THRISSUR DISTRICT.

BY ADV. SRI.JIJO PAUL

RESPONDENTS: STATE:

THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2642 of 2007

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Dated this the 20th day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. Cognizance has been taken. The case has been registered as early as in 2004. The petitioner has not appeared before the learned Magistrate. Coercive processes have been issued by the learned Magistrate. The petitioner finds a warrant of arrest chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful. He was employed abroad. He has no knowledge about the proceedings which was initiated against him. He is willing to co-operate with the court for the expeditious disposal of the case. He shall surrender before the learned Magistrate. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merit, in accordance with law and expeditiously.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate on merits, in accordance with law and expeditiously. It must be considered in the light of the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This Crl.M.C. is hence dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously, on the date of surrender itself.

(R. BASANT)
Judge

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